

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THOMAS G. STEWARD,

Petitioner,

9:01-CV-0569
(GLS)(GHL)

v.

FLOYD G. BENNETT, Superintendent,

Respondent.

APPEARANCES:

OF COUNSEL:

THOMAS G. STEWARD
97-B-1161
Petitioner, *pro se*
Auburn Correctional Facility
135 State Street
Auburn, New York 13021

OFFICE OF THE ATTORNEY GENERAL
State of New York
Counsel for the Respondent
615 Erie Boulevard West
Syracuse, NY 13204-2455

SENTA B. SIUDA, Esq.
Assistant Attorney General

GEORGE H. LOWE, United States Magistrate Judge

ORDER

By prior Order of this Court, *pro se* petitioner Thomas G. Steward was directed to file an amended petition for habeas corpus relief pursuant to 28 U.S.C. § 2254 which is a complete pleading and which sets forth “**ALL** of the grounds for habeas corpus relief pursuant to which he

is proceeding.” Dkt. No. 48 at 4-5.¹ As discussed at length in the Court’s prior Order, petitioner’s failure to file a complete amended pleading had created considerable uncertainty in the record regarding his claims. *Id.* at 2-4.

Petitioner’s second amended petition filed in accordance with the Court’s Order is before this Court for review. In that petition, petitioner asserts three grounds upon which he seeks habeas corpus relief. Dkt. No. 50. Petitioner claims that he received ineffective assistance of trial counsel, that a statement he gave to the police was involuntary, and that the trial court erred in permitting the prosecution to refer to petitioner’s drug use in support of the state’s case. *Id.* at 4-8.

Petitioner’s second amended petition (Dkt. No. 50) appears to be in proper form and is accepted for filing. Counsel for the respondent is directed to file a response to the second amended petition **within sixty (60) days** of the filing date of this Order. The parties are advised that the second amended petition supersedes the prior petitions in all respects and that the three grounds for habeas corpus relief set forth in petitioner’s second amended petition are the only grounds which will be addressed by the Court in its consideration of this matter.

WHEREFORE, it is hereby

ORDERED, that petitioner’s second amended petition for habeas corpus relief (Dkt. No. 50) is accepted for filing, and it is further


ORDERED, that respondent serve and file a response to the second amended petition **within sixty (60) days** of the filing date of this Order, and it is further

¹ Petitioner commenced this habeas corpus action in April, 2001 to challenge convictions rendered in Onondaga County Court in November, 1996. The first amended petition asserted seven grounds for relief. Dkt. No. 5.

ORDERED, that after the response to the second amended petition is filed, no further submissions are authorized, and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the parties.

Dated: July 12, 2005
Syracuse, New York


George H. Lowe
United States Magistrate Judge